

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

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JOHN DOE 147,

Plaintiff,

**COMPLAINT**

-against-

DIOCESE OF BROOKLYN and ST. MARTIN OF TOURS - OUR Index No. \_\_\_\_\_  
LADY OF LORDES CHAPEL f/k/a ST. MARTIN OF TOURS  
ROMAN CATHOLIC CHURCH,

Defendant.

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TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Plaintiff, JOHN DOE 147, by and through undersigned counsel, respectfully shows to this  
Court and alleges as follows:

**INTRODUCTION**

This is a revival action brought pursuant to the New York Child Victims Act, CPLR § 214-g. Plaintiff was repeatedly and continuously sexually assaulted and abused by Father Carmelo and Father Dwyer, priests and serial pedophiles of the Diocese of Brooklyn and St. Martin of Tours Roman Catholic Church. Plaintiff was between the ages of eleven (11) and twelve (12) when the sexual assaults and abuse occurred. The Diocese of Brooklyn and St. Martin of Tours had knowledge that Father Carmelo and Father Dwyer were sexually assaulting and abusing Plaintiff. Despite knowledge and notice of the ongoing sexual assault and abuse within the Diocese of Brooklyn and St. Martin of Tours, no action was taken to protect and prevent the continued assault of Plaintiff. Father Dwyer was since permanently removed from the ministry by the Roman Catholic Church in 2002.

**PARTIES, JURISDICTION AND VENUE**

1. Plaintiff is a citizen and resident of the State of New York. Plaintiff brings this Complaint anonymously because of the sensitive nature of the allegations of child sexual abuse in the Complaint, which is a matter of the utmost intimacy. Plaintiff fears embarrassment and further psychological damage if his identity as a victim of child sexual abuse were to become publicly known.

2. Defendant, DIOCESE OF BROOKLYN (hereafter referred to as “DIOCESE” or the “DIOCESE OF BROOKLYN”), is a religious institution and organization with principal offices located at 310 Prospect Road West, Brooklyn, New York. The Diocese of Brooklyn controls all Catholic religious, pastoral and educational functions in the boroughs of Brooklyn and Queens, encompassing approximately 180 parishes and 210 churches. The Diocese is a citizen and resident of the State of New York.

3. Defendant, ST. MARTIN OF TOURS - OUR LADY OF LORDES CHAPEL f/k/a ST. MARTIN OF TOURS ROMAN CATHOLIC CHURCH (hereinafter referred to as “ST. MARTIN OF TOURS”) is a Roman Catholic parish church under the authority of the Roman Catholic Diocese of Brooklyn, with a principal place of business located at 1288 Hancock Street, Brooklyn, New York. ST. MARTIN OF TOURS is a citizen and resident of the State of New York.

4. This Court has subject matter jurisdiction of this action pursuant to Article VI of the New York Constitution.

5. Personal jurisdiction lies over Defendants as they are present and domiciled in the State of New York.

6. Venue of this action lies in Kings County and a substantial part of the events or omissions giving rise to the claim occurred in Kings County or one of the Defendants resides in Kings County.

**BACKGROUND AND FATHER DWYER'S SEXUAL ASSAULTS OF PLAINTIFF**

7. Plaintiff was raised in a devout Catholic family. At all times relevant and material hereto, Plaintiff and his family were members of ST. MARTIN OF TOURS within the DIOCESE.

8. At all times relevant and material hereto, Father Dwyer was a priest within the DIOCESE. Father Dwyer was assigned to ST. MARTIN OF TOURS and served as an associate pastor.

9. At all times relevant and material hereto, Father Carmelo was a priest within the DIOCESE. Father Carmelo was assigned to ST. MARTIN OF TOURS and served as an associate pastor.

10. Plaintiff was introduced to Father Dwyer and Father Carmelo while serving as an altar boy. Thereafter, Plaintiff began working in the rectory office to earn extra money for his family.

11. In approximately 1977, when Plaintiff was approximately eleven (11) years old, Father Carmelo and Father Dwyer began sexual assaulting and abusing him.

12. The acts of sexual assault and abuse committed by Father Carmelo included, but were not limited to, showing Plaintiff heterosexual and homosexual pornography and performing oral sex on Plaintiff.

13. The acts of sexual assault and abuse committed by Father Dwyer included, but were not limited to, inappropriately touching Plaintiff and forcing Plaintiff to feel Father Dwyer's erection.

14. The acts of sexual assault and abuse committed by Father Carmelo and Father Dwyer occurred on the premises of ST. MARTIN OF TOURS. Father Carmelo and Father Dwyer often wore their priest garb during the sexual assaults and abuse of Plaintiff.

### **NOTICE – FORESEEABILITY**

#### **History of Child Sexual Abuse**

15. Father Carmelo and Father Dwyer sexually abused boys from the beginning of their tenure as priests. They sexually abused numerous children over decades as an active priest of the DIOCESE OF BROOKLYN and during their tenure at ST. MARTIN OF TOURS.

16. Father Carmelo and Father Dwyer was transferred between several different assignments within the DIOCESE and out of state.

17. Father Dwyer was permanently removed from the priesthood in 2002 due to allegations of child sexual abuse.

18. At all relevant times, the DIOCESE OF BROOKLYN and ST. MARTIN OF TOURS knew or in the exercise of reasonable care should have known that Father Carmelo and Father Dwyer had a propensity for the conduct which caused injury to Plaintiff, particularly that he had a propensity to engage in the sexual abuse of children.

19. At all relevant times, it was reasonably foreseeable to the DIOCESE OF BROOKLYN and ST. MARTIN OF TOURS that Father Carmelo and Father Dwyer would commit acts of child sexual abuse or assault on children.

20. At all relevant times, the DIOCESE OF BROOKLYN and ST. MARTIN OF TOURS knew or should have known that Father Carmelo and Father Dwyer were unfit, dangerous, and a threat to the health, safety and welfare of the minors entrusted to his ministry, counsel, care and/or protection.

21. With such actual or constructive knowledge, the DIOCESE OF BROOKLYN and ST. MARTIN OF TOURS' acts and omissions provided Father Carmelo and Father Dwyer with the opportunity to commit foreseeable acts of child sexual abuse or assault on Plaintiff.

**Diocese's Concealment of Acts of Sexual Abuse by Priests**

22. The Bishop of the DIOCESE at all relevant times knew that priests of the DIOCESE, under his supervision and control, were grooming and sexually molesting children with whom the priests would have contact in their ministry and pastoral functions. At all relevant times, the Bishop knew that this was a widespread, ubiquitous and systemic problem in the DIOCESE, involving many priests and numerous victims.

23. On or about February of 2019, the DIOCESE released a list of over 100 Priests of the DIOCESE, acknowledging what it deemed credible allegations of child sexual abuse that had been made against the listed priests. These priests are acknowledged to have abused children within the DIOCESE OF BROOKLYN over decades. The list includes the name of John Dwyer and that he was removed from the ministry in 2002.

24. Despite receiving credible allegations of child sexual abuse against priests, the DIOCESE acted to conceal these allegations in an effort to avoid scandal and accountability.

25. This concealment was in accordance with a policy of the DIOCESE, as agent, and the Holy See, as principal. In 1922, the Holy See released a confidential document to its bishops and other officials of Catholic organizations regarding the handling of cases of solicitation of sex in the confessional. This document mandated a specific procedure for Holy See's agents, including the Bishop of the DIOCESE, to use when a cleric abused children using the confessional. This document required strict secrecy. The 1922 document showed that the Holy See and its agents

were fully aware that there was a systemic problem of clergy sexually molesting children using the confessional.

26. In 1962, the Holy See released the confidential document, *Instruction on The Manner of Proceeding in Cases of Solicitation* (The Vatican Press, 1962) (hereinafter referred to as "*Crimen Sollicitationis*"). The heading of the document states, "From the Supreme and Holy Congregation of the Holy Office To All Patriarchs, Archbishops, Bishops and Other Diocesan Ordinaries 'Even of the Oriental Rite,'" and contains specific instructions regarding the handling of child sex abuse by clergy. According to the document itself, it is an "instruction, ordering upon those to whom it pertains to keep and observe it in the minutest detail." *Crimen Sollicitationis* at paragraph 24.

27. The 1962 document reinforced that the Holy See and its agents to whom the documents was directed had knowledge that there was a systemic problem of Catholic clergy sexually molesting children using the confessional.

28. At the same time, the Holy See was involved in the formation of secret facilities in the United States where sexually offending clergy would be sent for short periods of time. In 1962-63, Fr. Gerald Fitzgerald reported to the Pope on the problem of abuse of children by clergy and expressed concerns if these priests were returned to active duty.

29. Fr. Fitzgerald's reports were kept secret under the Holy See's standing policy to avoid scandal at all costs. Its recommendation was ignored, however, and instead the Holy See made a choice to return known offending priests to active duty. At this point, it is clear that the Holy See and its agents, including the DIOCESE, knew they had a widespread problem of clergy sexually molesting minors, and they participated in the creation and the operation of facilities in

the United States where sexually offending clergy could be sent before they were moved to another parish to work and potentially abuse again.

30. The Holy See's policy of secrecy under penalty of immediate removal from the organization (excommunication) for all involved in an accusation of child sexual abuse created a shroud of secrecy insulating Priests from consequence. Through this policy and others, the Holy See and its agents, including the DIOCESE, knowingly allowed, permitted and encouraged child sex abuse by the DIOCESE's priests.

31. The Holy See mandates secrecy for all those involved, including agents and itself, in handling allegations of sexual abuse. Penalties for child sexual abuse include an order to move offending priests to other locations once they have been determined to be "delinquent." In response to allegations, the document mandates that supplementary penalties include: "As often as, in the prudent judgment of the Ordinary, it seems necessary for the amendment of the delinquent, for the removal of the near occasion [of soliciting in the future], or for the prevention of scandal or reparation for it, there should be added a prescription for a prohibition of remaining in a certain place." *Crimen Sollicitations* at paragraph 64. Under this policy of secrecy and transfers or reassignments, all involved are threatened with excommunication and, thus, damnation, if they do not comply.

32. The policy of secrecy and the severest of penalties for its violation were reiterated in documents issued by officials of the Holy See for the benefit of its agents, including the Bishop of the DIOCESE, in 1988 and 2001.

33. The policies and practices of the DIOCESE designed to conceal sexual abuse by clergy and protect it from scandal and liability included the following:

- a. transfer and reassignment of clergy known or suspected to abuse minors to

deflect attention from reports or allegations of child sexual abuse;

- b. concealing from parishioners and even other clergy that a priest reassigned to their parish posed a danger of sexual abuse to children;
- c. failing to alert parishioners from the priest's prior assignments that their children were exposed to a known or suspected child molester;
- d. failing to report sexual abuse to criminal authorities; and
- e. otherwise protecting and fostering the interests of abusive clergy to the detriment of the victims and the community, for the purpose of avoiding scandal and public scrutiny.

34. Upon information and belief, the DIOCESE's transfers and reassignments of Father Dwyer were pursuant to this policy and practice designed to conceal sexual abuse of clergy and protect the Diocese from scandal.

35. Indeed, the policy of secrecy and lack of consequences for the sexual abuse of children was perceived as a perquisite by clergy sex abusers. The Holy See and DIOCESE believed it to be perceived as a perquisite, which it condoned and used to its advantage in controlling priests.

36. Plaintiff was in a zone of foreseeable harm as a child engaged in Catholic activities in close proximity to or with Catholic clergy.

37. The Defendants were in the best position to protect against the risk of harm as it knew of the systemic problem and foreseeable proclivities of its priests to sexually abuse children.

38. At all times relevant and material hereto, while the Defendants had special and unique knowledge of the risk of child sexual abuse by its priests, such priests who would prey on



children were outside the reasonable contemplation of the Catholic community and families who trusted Priests to have access to their children.

39. Plaintiff had no opportunity to protect himself against a danger that was solely within the knowledge of the Defendants.

40. The Defendants knew a significant percentage of priests were using their status and position to identify, recruit, groom and sexually assault vulnerable children in the Church.

41. All children engaging in Catholic activities within the DIOCESE and at ST. MARTIN OF TOURS were in this manner placed at risk of child sexual abuse.

### **DUTY**

42. At all times relevant and material hereto, defendant DIOCESE, as principal, and defendant ST. MARTIN OF TOURS, as agent, were in an agency relationship, such that ST. MARTIN OF TOURS acted on the DIOCESE's behalf, in accordance with the DIOCESE's instructions and directions on all matters, including those relating to the hiring of priests and clergy. The acts and omissions of ST. MARTIN OF TOURS were subject to the DIOCESE's plenary control, and ST. MARTIN OF TOURS consented to act subject to the DIOCESE's control.

43. At all times relevant and material hereto, defendant DIOCESE and Plaintiff were in a special relationship of church-parishioner, in which the DIOCESE owed Plaintiff a duty of reasonable care to prevent foreseeable harm.

44. At all times relevant and material hereto, defendant DIOCESE and Father Dwyer were in a special relationship of employer – employee, in which the DIOCESE owed a duty to control the acts and conduct of Father Dwyer to prevent foreseeable harm.

45. all times relevant and material hereto, defendant DIOCESE and Father Carmelo were in a special relationship of employer – employee, in which the DIOCESE owed a duty to control the acts and conduct of Father Carmelo to prevent foreseeable harm.

46. At all times relevant and material hereto, defendant DIOCESE owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of the DIOCESE. The DIOCESE's duties encompassed using reasonable care in the retention, supervision and hiring of Father Dwyer and Father Carmelo and the duty to otherwise provide a safe environment for Plaintiff.

47. Defendant DIOCESE had a duty to exercise reasonable care in the training of clergy, priests, administration and staff in the prevention of sexual abuse and protection of the safety of children and parishioners in its care.

48. Defendant DIOCESE had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the children and parishioners in its care.

49. At all times relevant and material hereto, defendant ST. MARTIN OF TOURS and Plaintiff were in a special relationship of church – parishioner, in which ST. MARTIN OF TOURS owed Plaintiff a duty of reasonable care to protect him from foreseeable harm.

50. At all times relevant and material hereto, defendant ST. MARTIN OF TOURS and Father Dwyer were in a special relationship of employer-employee, in which ST. MARTIN OF TOURS owed a duty to control the acts and conduct of Father Dwyer to prevent foreseeable harm.

51. At all times relevant and material hereto, defendant ST. MARTIN OF TOURS and Father Carmelo were in a special relationship of employer-employee, in which ST. MARTIN OF

TOURS owed a duty to control the acts and conduct of Father Carmelo to prevent foreseeable harm.

52. Defendant ST. MARTIN OF TOURS owed a duty to Plaintiff to use reasonable care to protect the safety, care, well-being and health of Plaintiff while he was under the care, custody or in the presence of ST. MARTIN OF TOURS. ST. MARTIN OF TOURS's duties encompassed using reasonable care in the retention, supervision and hiring of Father Dwyer and Father Carmelo and the duty to otherwise provide a safe environment for Plaintiff.

53. Defendant ST. MARTIN OF TOURS had a duty to exercise reasonable care in the training of clergy, priests, administration and staff in the prevention of sexual abuse and protection of the safety of children and parishioners in its care.

54. Defendant ST. MARTIN OF TOURS had a duty to establish and implement policies and procedures in the exercise of reasonable care for the prevention of sexual abuse and protection of the safety of the children and parishioners in its care.

### **BREACH**

55. The Defendants breached their duties by (i) hiring Father Dwyer and Father Carmelo as priests when they knew or should have known of his sexual proclivities for children; (ii) at all relevant times, retaining and failing to adequately supervise Father Dwyer and Father Carmelo as active priests of the DIOCESE; and (iii) granting and maintaining Father Dwyer and Father Carmelo faculties as priests without making any warning or notice of his perverse sexual proclivities to the Catholic faithful who would have contacts with Father Dwyer and Father Carmelo.

56. At all relevant times, the Defendants had inadequate policies and procedures to protect children who would encounter their Catholic priests in the course of their duties.

57. The Defendants concealed their knowledge that priests, and more specifically Father Dwyer and Father Carmelo, were unsafe and failed to adopt policies and procedures that would protect children such as Plaintiff and reduce the risk of child sexual abuse by its priests.

58. The Defendants failed to warn Catholic families that their children were at risk of sexual abuse by priests.

### **NATURE OF CONDUCT ALLEGED**

59. This action alleges physical, psychological and emotional injuries suffered as a result of conduct which would constitute a sexual offense on a minor as defined in Article 130 of the New York Penal Law, including without limitation, conduct constituting rape (consisting of sexual intercourse) (N.Y. Penal Law §§ 130.25 – 130.35); criminal sexual act (consisting of oral or anal sexual conduct) (N.Y. Penal Law §§ 130.40 – 130.53), and/or sexual abuse (consisting of sexual contact) (N.Y. Penal Law §§ 130.55 – 130.77).

60. The limitation of liability set forth in CPLR Art. 16 is not applicable to the claim of personal injury alleged herein, by reason of one or more of the exemptions provided in CPLR § 1602, including without limitation, that Defendant acted with reckless disregard for the safety of others, including Plaintiff, or knowingly or intentionally, in concert with Father Dwyer and Father Carmelo to retain Father Dwyer and Father Carmelo in ministry with unfettered access to children.

### **COUNT I - NEGLIGENCE** **(Against Defendant DIOCESE)**

61. Plaintiff repeats and realleges Paragraphs 1 through 60 above.

62. As a direct and proximate result of the Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

63. The Defendant's acts and conduct shows a reckless or willful disregard for the

safety and well-being of Plaintiff and other children.

**COUNT II - NEGLIGENCE**  
**(Against Defendant ST. MARTIN OF TOURS)**

64. Plaintiff repeats and realleges Paragraphs 1 through 60 above.

65. As a direct and proximate result of the Defendant's negligence, Plaintiff has suffered and continues to suffer severe and permanent psychological, emotional and physical injuries, shame, humiliation and the inability to lead a normal life.

66. The Defendant's acts and conduct shows a reckless or willful disregard for the safety and well-being of Plaintiff and other children.

WHEREFORE, Plaintiff demands judgment against the Defendants for compensatory damages, punitive damages, costs and such other and further relief as this Court deems proper.

**DEMAND FOR JURY TRIAL**

Plaintiff demands a jury trial in this action.

Dated: New York, New York  
November 15, 2019

Respectfully submitted,

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